

**REMARKS**

Claims 13, 14, 18, 19, 21, 22, and 24 were previously pending in the application. This Amendment amends claim 18. Claims 13, 14, 19, 21, 22, and 24 remain unchanged. Claim 18 is independent.

**The Specification Objections**

The disclosure is objected to because of informalities. The Office Action states that at page 7, lines 12-15, it is still not clear how it is possible for the basket support plate 1 to be disengaged from the dishware basket 10 as disclosed. Particularly, the Office Action states that it appears that the specification has mischaracterized that the catch hook 6 would cause "disengaging of the basket support plate 1 from the dishware basket".

The Office Action asserts that it appears that the disengagement of catch hook 6 would allow for vertical adjustment of the basket and the support plate relative to each other, but the support plate 1 is still in engagement with the basket by at least guide element 7; therefore, it should have been disengaging of the catch hook 6 from the basket strut in order to allow vertical adjustment of the basket support plate 1.

Applicants respectfully traverse this objection.

When considered as a whole, the specification very clearly describes the features of the present invention.

For example, the specification at Page 7, lines 2-18, explains that:

The basket support plate 1 is mounted vertically displaceably on the basket struts and can be fixed via an adjustment lever 2 at different height positions on the dishware basket 10. The adjustment lever 2 is attached according to the present invention on the basket support plate 1 and is swivel-mounted with its handle end 2' in a recess 3 of the basket support plate 1. Arranged on this

handle end 2' is a catch hook 6 oriented to the basket interior- that is, on the rear - located in the recess 3, see Figure 2. Preferably, the catch hook 6 is designed as a triangle and is located on the edge of the recess 3, to cause disengaging of the basket support plate 1 from the dishware basket 10, that is, from the horizontally extending basket strut, in which it is fixed by swivelling the adjustment lever 2 as early as possible and with minimal effort. Due to the triangular shape of the catch hook 6, as evident in the additional side view of the catch hook 6 in Figure 2, there results a large stop bevel 6' of the catch hook, enabling the dishware basket 10 to be adjusted from the lower height position to the upper height position without actuating the adjustment lever 2.

The specification very clearly explains that the basket struts 11 of the dishware basket 10 are stably mounted in the guide elements 7 of the basket support plate 1 while the basket support plate 1 is travels upwards or downwards in a disengaged state. See, e.g., Page 11, lines 4-11 and 24-31.

Applicants respectfully submits that one of ordinary skill would know and understand the catch hook 6 being designed as a triangle and located on the edge of the recess 3 causes disengaging of the basket support plate 1 from the dishware basket 10 as the dishware basket 10 is adjusted (i.e., travelling) from the lower height position to the upper height position without actuating the adjustment lever 2. In the context in which this statement is written, one of ordinary skill in the art would recognize that every part of the basket support plate 1 is not completely disengaged from the dishware basket 10. Instead, the basket support plate 1 is disengaged from the dishware basket 10 such that the dishware basket 10 can move or travel upwards or downwards with respect to the basket support plate 1. See, e.g., Page 11, lines 4-11 and 24-31.

Thus, the specification is clear and understandable as written and no amendments to the specification are necessary.

Applicants respectfully request withdrawal of this objection.

**The Rejections under 35 U.S.C. § 112, second paragraph**

The Office Action rejects claims 13, 14, 18, 19, 22, and 24 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicants respectfully traverse these rejections.

M.P.E.P. § 2173.02 sets out the standard for complying with 35 U.S.C. § 112, second paragraph:

The essential inquiry pertaining to the requirement under 35 U.S.C. § 112, second paragraph, is 'whether the claims set out and circumscribe a particular subject matter with a reasonable degree of clarity and particularity. Definiteness of claim language must be analyzed, not in a vacuum, but in light of: (A) the content of the particular application disclosure; (B) the teachings of the prior art; and (C) the claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made.'

**A.** The Office Action asserts that in claim 18, lines 24-25, "the limitation "means for biasing said adjustment lever...toward said basket support plate" is indefinite for failing to clearly the define the metes and bounds of the claimed invention; it is not clear what applicant is trying to claim here." Office Action at page 3.

Claim 18 very clearly sets out and circumscribes the subject matter with a reasonable degree of clarity and particularity using means plus function language. The means for biasing the adjustment lever toward the basket support clearly is described in the specification.

For example, the specification very clearly describes that the adjustment lever 2 is coupled to a spring engaging on the handle end 2' - of which in Figures 1 and 2 only the spring legs 4 are visible, while the spring body is incorporated in the pivoting handle end 2' - by means of which the adjustment lever 2 can be swung back in the opposite direction after actuating the handle part 2" in the direction of the basket interior, and thus after the dishware basket 10 is uncoupled from the basket support plate 1 - by actuating the handle part 2" - the adjustment lever 2 is not swung back by the user into the start position, but does so automatically.

Thus, claim 18 very clearly defines the metes and bounds of the claimed invention.

Applicants respectfully request withdrawal of this rejection.

**B.** The Office Action asserts that in claim 18, lines 34-40 "it is not clear how it is possible that when actuation movement of the handle end (emphasis added) of said adjustment lever (which having the catch hook 6 arranged thereon) in the first direction moves in a direction toward the interior of the dishware basket, a guide element of the basket support plate being disengaged from the dishware basket to allow the basket to move from an upper position to a lower position; what about the catch hook 6? When the handle end moves toward the interior of the dishware basket, wouldn't the catch hook prevent movement of the basket from the upper position to the lower position?"

Applicants respectfully submit that the Office Action misstates that actual language of claim 18, and that claim 18 is clear and definite.

Claim 18 very clearly recites:

"said catch hook on said handle end of said adjustment lever is configured to automatically engage one of the horizontally extending basket struts of the dishwasher basket as the dishware basket completes its movement from the lower height position into the upper height position and

actuation movement of said handle part of said adjustment lever in said first direction from said basket support plate toward the interior of the dishware basket against the bias of said biasing means effects disengagement of a guide element of said basket support plate from the dishware basket, whereupon the dishware basket is free to move automatically under the action of gravity from the upper height position into the lower height position. "

Emphasis added.

Applicants respectfully submit that claim 18 clearly and accurately recites the features of the claimed invention.

Applicants respectfully request withdrawal of this rejection.

C. The Office Action states that it appears that the "handle end" should be the "handle part" in lines 34-40 of claim 18. However, the Response to Arguments of the present Office Action specifically states that if the "handle end" is amended to recite the "handle part", as suggested above, then this rejection would be obviated. See Office Action at page 6, first paragraph.

Claim 18 is amended in accordance with the Office Action's very helpful suggestion, thereby overcoming this rejection. Claim 18 is clear and definite.

Applicants respectfully request withdrawal of this rejection.

**The Claimed Invention**

An exemplary embodiment of the claimed invention, as recited by, for example, independent claim 18, is directed to a device for adjusting the height position of a dishware basket of a dishwashing machine [...] including an adjustment lever pivotally mounted to said basket support plate such that a handle part of the adjustment lever may be pivoted toward and away from said basket support plate, said adjustment lever including a handle end located in said recess; [...] a catch hook on said handle end of said adjustment lever and located in said recess of said basket support plate so as to be oriented to the dishware basket interior when said basket support plate is mounted on a side wall of the dishware basket; [...] said adjustment lever in a non-actuated disposition in which said catch hook extends into the path of movement of the dishwasher basket such that, when the dishware basket is moved from a lower height position into an upper height position, said catch hook on said handle end of said adjustment lever configured to automatically engage one of the horizontally extending basket struts of the dishwasher basket as the dishware basket completes its movement from the lower height position into the upper height position and actuation movement of said handle part of said adjustment lever in said first direction from said basket support plate toward the interior of the dishware basket against the bias of said biasing means effects disengagement of a guide element of said basket support plate from the dishware basket, whereupon the dishware basket is free to move automatically under the action of gravity from the upper height position into the lower height position, as recited by independent claim 18.

In the conventional devices, the adjustment lever requires a separate lever mounting for adjusting the height position of the basket support plate or it has to shift a separate locking element for this same purpose. Thus, the conventional devices commonly include several device elements arranged separately from

one another, and cooperating with one another, which results in a large, complex device.

In stark contrast, the present invention provides a compact and self-contained device for adjusting the height position of an extensible dishware basket that is extremely easily and simply mounted on the dishware basket 10 and prevents dishes from coming into contact with the adjustment device. Page 7, lines 13-18.

**The Rejections under 35 U.S.C. § 102**

In the Office Action, claims 13-14, 18-19, 22, and 24 are rejected under 35 U.S.C. § 102(b) as being anticipated by the Bertazzoni reference (EP 0848930). Applicants respectfully traverse this rejection.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. [...] The identical invention must be shown in as complete detail as is contained in the ... claim." M.P.E.P. § 2131.

Applicants respectfully submit that the Bertazzoni reference does not disclose the features of the claimed invention including an adjustment lever pivotally mounted to said basket support plate such that a handle part of the adjustment lever may be pivoted toward and away from said basket support plate, said adjustment lever including a handle end located in said recess; [...] a catch hook on said handle end of said adjustment lever and located in said recess of said basket support plate so as to be oriented to the dishware basket interior when said basket support plate is mounted on a side wall of the dishware basket; [...] said adjustment lever in a non-actuated disposition in which said catch hook extends into the path of movement of the dishwasher basket such that, when the dishware basket is moved from a lower height position into an upper height position, said catch hook on said handle end of said adjustment

lever configured to automatically engage one of the horizontally extending basket struts of the dishwasher basket as the dishware basket completes its movement from the lower height position into the upper height position and actuation movement of said handle part of said adjustment lever in said first direction from said basket support plate toward the interior of the dishware basket against the bias of said biasing means effects disengagement of a guide element of said basket support plate from the dishware basket, whereupon the dishware basket is free to move automatically under the action of gravity from the upper height position into the lower height position, as recited by independent claim 18.

As explained above, these features are important for providing a compact and self-contained device for adjusting the height position of an extensible dishware basket that is extremely easily and simply mounted on the dishwasher basket 10 and prevents dishes from coming into contact with the adjustment device.

The Bertazzoni reference very clearly does not disclose these features.

Instead, in the arrangement of the Bertazzoni reference, there is no structure that "automatically engages one of the horizontally extending basket struts of the dishwasher basket as the dishware basket completes its movement from the lower height position into the upper height position", let alone any structure, as set forth in claim 13 of the present application, that "normally maintains the handle end of the adjustment lever in a non- actuated disposition in which the catch hook extends into the path of movement of the dishwasher basket such that, when the dishware basket is moved from a lower height position into an upper height position, the catch hook on the handle end of the adjustment lever automatically engages one of the horizontally extending basket struts of the dishwasher basket as the dishware basket completes its movement from the lower height position into the upper height position."



The Bertazzoni reference discloses a rack C that is lifted from a lower position to an upper position, whereupon, as the rack C is lifted, the end 3b of the latch 3 is biased by the spring 3c to jump outward and engage a locking tooth 7, which locking tooth 7 is on the plate 2. The latch 3 of the Bertazzoni reference does not engage any structure of the dishwasher basket as the rack C is lifted (as opposed to engaging a "basket support plate" mounted on a side wall of the dishware basket). The end 3b of the latch 3 of the Bertazzoni reference engages a structure (the plate 2) that the Examiner has deemed to be, together with the bracket 1 of the Bertazzoni reference, the equivalent of the "basket support plate," and thus, clearly not a part of a dishwasher basket. Hence, the Bertazzoni reference clearly fails to disclose any structure that "automatically engages [one of the horizontally extending basket struts of] the dishwasher basket as the dishware basket completes its movement from the lower height position into the upper height position."

Moreover, the Bertazzoni reference fails to disclose a device for adjusting the height position of a dishware basket wherein "actuation movement of the handle part of the adjustment lever in the first direction from the basket support plate toward the interior of the dishware basket against the bias of the biasing means effects disengagement of a guide element of the basket support plate from the dishware basket, whereupon the dishware basket is free to move automatically under the action of gravity from the upper height position into the lower height position." The Office Action does not identify any component of the Bertazzoni reference that disengages from the dishware basket upon a movement of the latch 3 of the Bertazzoni reference. Instead, the Bertazzoni reference discloses that inward movement of the latch 3 results in a disengagement of the end 3b of the latch 3 from the locking tooth 7 of the plate 2. However, since the plate 2 of the Bertazzoni reference is not comprised in "a dishware basket" (i.e., the rack C of Bertazzoni '930) but is, instead comprised in

a structure that the Examiner has deemed to be, together with the bracket 1 of the Bertazzoni reference, the equivalent of the "basket support plate" recited in claim 13, the Bertazzoni reference fails to teach or discloses a device for adjusting the height position of a dishware basket wherein "actuation movement of the handle part of the adjustment lever in the first direction from the basket support plate toward the interior of the dishware basket against the bias of the biasing means effects disengagement of a guide element of the basket support plate from the dishware basket, whereupon the dishware basket is free to move automatically under the action of gravity from the upper height position into the lower height position."

The Bertazzoni reference very clearly does not disclose all of the features recited by independent claim 13.

Applicants respectfully request withdrawal of this rejection.

**CONCLUSION**

In view of the above, entry of the present Amendment and allowance of claims 13, 14, 18, 19, 21, 22, and 24 are respectfully requested. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted,

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